

with wheels 22" (column 2, lines 38 to 39). There is no further disclosure of the frame 20. In particular, there is clearly no description or teaching of a pair of leg frames. Presumably, the frame 20 of Overholser is simply a unit of four legs which are fixedly secured to the fire box 12. Secondly, there is no teaching that the frame 20 of Overholser is "releasably connected" to the fire box 12.

Claim 1 requires a tabletop releasably connected to and across the leg frames. Overholser teaches the use of a serving/eating portion 18 surrounding the fire box 12 so that guests may be served and may eat at the location of food preparation. This serving/eating portion 18 is formed by a pair of end portions 40 and side members 42 and together these sections 40, 42 define an opening into the fire box 12. As such, these sections 40, 42 are not connected 'to and across' the frame 20 as they would otherwise cover over the fire box 12 (see Fig. 1).

Also, the end portions 40 of Overholser are supported on support members 36 securely affixed to the frame 20 (column 2, lines 61 to 63) but the side members 42 are supported by support members 44 which are hingedly secured to the fire box 12 (column 2, lines 63 to 65; column 3, lines 9 to 13). There is no teaching that the side members 42 are connected to the frame 20.

Still further, there is no teaching in Overholser that the end portions 40 and/or side members 42 are releasably connected to the fire box 12. Instead, Overholser teaches that the end portions 40 are "securely affixed" to the frame 20 and that the side members 42 are hingedly connected at 46 to the fire box 12.

Finally, it is to be noted that claim 1 is directed to a "knock-down portable bar cart". Overholser is directed to a portable cooking griddle, not a bar cart. Further, there is no teaching in Overholser that the portable gas/fire cooking unit is of "knock-down" construction as recited in the preamble of claim 1. Coupled with the functional language of claim 1 of the releasable connection of the leg frames to the body and the releasable connection of the tabletop to the leg frames, the preambular recitation serves to provide a definition of the invention and gives "life

and meaning” to the claim such that it must be considered as a positive limitation in determining patentability. See Corning Glass Works v. Sumitomo Electric U.S.A. Inc., 868 F.2d 1251, 1257, 9 USPQ 2d 1962, 1966 (Fed. Cir. 1989) and Diversitech Corp. v. Century Steps, Inc., 850 F.2d 675, 7 USPQ 2d 1315 (Fed. Cir. 1988).

In summary, in view of the differences between the structure described in Overholser and the claimed structure, a rejection of claim 1 as being anticipated by Overholser is not warranted pursuant to the provisions of 35 U.S.C. 102.

Claim 13 depends from claim 1 and further recites that *each* leg frame has a pair of horizontal outwardly disposed arms and further that the tabletop rests on the said arms. The support members 36, as shown in Figs. 1 and 2 of Overholser, are secured to the frame 20 to support the end members 40 which in the form of wood slats are secured to the support 36 by screws or bolts.

If the Examiner is reading the support members 36 as the “arms” of claim 13 then the slats secured to the supports 36 must be read as the “tabletop”. However, the Examiner has previously read the entire serving/eating portion 18 which is constituted by the support members 36, 44 and members 40, 42, as a table top.

Claims 9 to 11 depend from claim 1 and are believed to be allowable for similar reasons.

Claim 10 further requires the body frame to have a pair of vertically spaced spacers at each corner while requiring each leg frame to include a vertical plate having a pair of vertically spaced slots. For example, Fig. 5 of applicant’s drawings shows the spacers 28 on the body frame 11 and the plates 34 on each leg frame 13. In Thrasher, Fig. 2 and Fig. 5 illustrate gussets 42, 44 which are pivotally attached to each other and held in a locked position relative to each other by a gusset lock 46 which can be moved between the positions shown in Figs. 2 and 5. The relevance of the gussets 42, 42 of Thrasher with respect to the structure of Overholser is questioned. Clarification of the rejection of claim 10 is requested.

Abrams simply illustrates and describes the use of a spacer 174 between two relatively pivotable structures, i.e. a side tube 162 and a spacer ring 150. As such, the relevance of Abrams to the claimed structure of claim 10 requires clarification.

Note is made of the Examiner's observation that it would be obvious to modify Overholser to include vertical plates and spacers to facilitate pivot movement between the body frame and the leg frame. The structure recited in claim 10 is not to facilitate a pivoting movement but rather an interlocking of the leg frames 13 to the body frame 11, as can be determined from the exploded view of Fig. 5 of applicant's drawings.

In view of the above, a rejection of claim 10 as being unpatentable over Overholser in view of Thrasher and Abrams is not warranted pursuant to the provisions of 35 U.S.C. 103.

#### **Schliemann**

Claim 1 has also been rejected as being unpatentable over Schliemann.

Schliemann is directed to a table assembly constituted by two identical base modules 10 which support a slab 11.

It is understood that the Examiner is interpreting the structure shown in Fig. 3 of Schliemann as having a body frame C and a pair of leg frames A, B "releasably connected" to the body frame C via pivots 15. However, Schliemann describes the leg elements A, B as being "pivotally interconnected by a center frame C" (column 2, lines 33 to 35). There is no teaching that the leg frames are releasably connected to the center frame C. Instead, Schliemann teaches a permanent connection.

Claim 1 further requires a tabletop to be releasably connected to the leg frames. In Schliemann, the slab 11 simply rests on the base modules 10. There is no releasable connection between the slab 11 and the base modules 10. Further, it is not seen how the slab 11 could be releasably connected to the base modules 10, as neither the slab 11 or the base modules have any interfitting surfaces or elements thereon to accomplish such.

In view of the above, a rejection of claim 1 as being unpatentable over Schliemann is not warranted pursuant to the provisions of 35 U.S.C. 103.

As previously noted, the preamble of claim 1 is directed to a knock-down portable bar cart. The Examiner acknowledges that Schliemann lacks the teaching of a portable cart but alleges that it would be obvious to modify the Schliemann structure to include wheels or casters to facilitate ease in moving the table assembly from one place to another. Issue is taken in this respect. Since the slab 11 of Schliemann is not connected to the base modules 10, any attempt to push the table via the slab 11 would simply result in the slab 11 sliding off the base modules 10. Placing wheels on the bottom of the base module 10 only increases the risk that the slab 11 may slide off the base modules 10 during any movement of the table. Simply stated, the table of Schliemann is not intended to be moved but is intended to be stationary.

Claim 2 depends from claim 1 and further recites that the body frame is a “rectangular box-shape skeletal structure”. The center frame C of Schliemann is not such a structure. Accordingly, a rejection of claim 2 as being unpatentable over Schliemann is not warranted pursuant to the provisions of 35 U.S.C. 103.

Claim 13 requires each leg frame to have outwardly disposed arms. The Examiner alleges that the leg elements A, B of Schliemann have outwardly disposed arms. However, as the leg elements A, B are constituted by the vertical and horizontal pieces shown in Figs. 3 and 4, there is clearly no horizontal outwardly disposed arm extending therefrom. Does the Examiner consider the vertical leg shown in Fig. 4 of Schliemann as a “leg frame”? Clarification is requested.

Claim 15 depends from claim 1 and further recites that the body frame includes two pairs of parallel rectangular frames. The center frame C of Schliemann is clearly not so constructed. Accordingly, a rejection of claim 15 as being unpatentable over Schliemann is not warranted pursuant to the provisions of 35 U.S.C. 103.

Claim 18 is directed to a bar cart comprising "a body frame of box-shaped skeletal structure". The center frame C of Schliemann is not such a frame.

Claim 18 further requires "connecting means integrated in said body frame and each leg frame for releasably connecting each leg frame to said body frame". Schliemann employs pivots 15 to pivotally connect the leg elements A, B to the center frame C. There is no teaching that the pivots form a releasable connection.

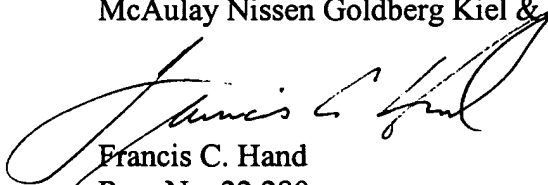
Claim 18 further requires a tabletop "releasably connected to and across said like frames ...". In Schliemann, the slab 11 simply rests on the two base modules 10. There is no connection therebetween.

In view of the above, a rejection of claim 18 as being unpatentable over Schliemann is not warranted pursuant to the provisions of 35 U.S.C. 103.

Claim 24 depends from claim 18 and further recites that the body frame includes pairs of parallel rectangular frames. The center frame C of Schliemann is void of any such structure.

The remaining references have been reviewed; however, none is believed to be pertinent to the claims alone or in combination.

Respectfully submitted,  
McAulay Nissen Goldberg Kiel & Hand, LLP

  
Francis C. Hand  
Reg. No. 22,280

**CERTIFICATE OF MAILING**

I hereby certify that this correspondence is being deposited  
with sufficient postage in an envelope addressed to:

Assistant Commissioner of Patents  
Washington, D.C. 20231

on Dec 99 By Ruth Montalvo  
Ruth Montalvo